

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**STATE FARM MUTUAL
AUTOMOBILE INSURANCE
CO. AS SUBROGEE OF KI WON
KIM,**

PLAINTIFF,

V.

CIVIL ACTION NO:

UNITED STATES OF AMERICA,

DEFENDANTS.

COMPLAINT

Comes now the Plaintiff, State Farm Mutual Automobile Insurance Co. as subrogee of Ki Won Kim, and moves for the judgment against the Defendant, the United States of America, on the grounds and in the amount set forth below:

1.

Plaintiff is a corporation registered to do business in the State of Georgia and maintains offices within the state.

2.

Plaintiff's claims against Defendant are made under the Federal Tort Claims Act, 28 USC 1346(b), for damage to property as a result of the negligent

operation of a motor vehicle by an employee of the United States of America, said negligence having occurred on November 18, 2021, in Gwinnett County in the State of Georgia.

3.

Plaintiff filed an administrative claim asserting its right as the subrogee of Ki Won Kim to recover damages against the United States under the Federal Tort Claims Act. Plaintiff's administrative claim was delivered to the United States of America. The claim has either been denied or has been left without action by the United States of America for a period greater than six (6) months.

4.

On or about November 18, 2021, Plaintiff's insured, Ki Won Kim, was operating a 2020 Honda Accord in the east bound direction on Davenport Road at its intersection with Hill Drive in the City of Duluth, Gwinnett County of United States, State of Georgia.

5.

At the time and place described in paragraph 4 above, Sayeh Diggs operated a motor vehicle owned by the United States Postal Service, traveling east bound on Davenport Road at its intersection with Hill Drive in Duluth, Georgia.

6.

At the time and place described in paragraph 4 above, Sayeh Diggs rear-ended Plaintiff's insured, Ki Won Kim while the insured's vehicle was stopped.

7.

At the time of the incident described in paragraphs 4 through 6 above, Sayeh Diggs was an employee of the United States Postal Service and was operating the vehicle with the knowledge and consent of Defendant and in the course and scope of his employment.

8.

At the time and place set forth in paragraphs 4 through 6 above, Sayeh Diggs owed a duty to Plaintiff's insured to use due care in the operation of the vehicle and was required to operate said vehicle in obedience to all local traffic ordinances, the Georgia Motor Vehicle Act and the common laws of the State of Georgia.

9.

Sayeh Diggs breached the duties owed to Plaintiff's insured and was negligent in his operation of the government vehicle. His/her negligence included:

- A. Failing to pay proper attention to his course of travel;
- B. Driving in a careless manner;
- C. Failing to maintain control of his vehicle;
- D. Failing to operate his vehicle at a careful and prudent speed, taking into account the traffic, surface and weather conditions existing;
- E. Following too close to the Plaintiff's insured vehicle and;
- F. Operating his vehicle in a manner which endangered Plaintiff and others.

10.

The November 18, 2021 collision was caused by the negligence of Sayeh Diggs.

11.

That Plaintiff insured Ki Won Kim and made payments to Ki Won Kim for the property damage in the amount of \$1,801.81 pursuant to Plaintiff's Automobile Insurance Policy. Plaintiff State Farm Mutual Automobile Insurance Co. is subrogated to the rights of Ki Won Kim.

12.

Defendant is liable to Plaintiff for the damages in the amount of \$1,801.81 for the negligence of Sayeh Diggs under the provisions of the Federal Tort Claims Act, 28 U.S.C. §1346(b).

WHEREFORE, Plaintiff respectfully demands judgment against the Defendant for the principal amount of \$1,801.81 plus court costs and post-judgment interest at the legal rate. Plaintiff further demands that a writ of Fieri Facias issue.

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